



**MINUTES OF SPECIAL JOINT MEETING OF THE  
CITY COUNCIL/REDEVELOPMENT AGENCY  
OF THE CITY OF HAYWARD  
City Council Chambers  
777 B Street, Hayward, CA 94541  
Tuesday, December 21, 2004, 8:00 p.m.**

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**MEETING**

The Special Joint City Council/Redevelopment Agency Meeting was called to order by Mayor/Chair Cooper at 8:00 p.m., followed by the Pledge of Allegiance led by Council/RA Member Dowling.

**ROLL CALL**

Present: COUNCIL/RA MEMBERS Jimenez, Quirk Halliday, Ward, Dowling, Henson  
MAYOR/CHAIR Cooper  
Absent: COUNCIL/RA MEMBERS None

**PRESENTATION**

The City of Hayward presented the Business Recognition Award for December to Discovery Foods Co., the largest dumpling maker in the country. Discovery Foods' headquarters and production facility are located at 2395 American Avenue. Brothers Clarence and Alfred Mou started Discovery Foods in 1986 in Walnut Creek. They moved to Hayward in early 1944 after outgrowing the Emeryville office. Discovery Foods are sold at club stores such as Costco and Sam's Club, and at West Coast supermarkets including Safeway, Albertson's, Nob Hill Foods, Raley's and Whole Foods in Northern California.

Discovery Foods is building an additional 30,000 square foot facility on Alpine Avenue in Hayward, expected to open in 2005, to complement its 40,000 square foot headquarters. After expansion, Discovery Foods expects to increase employment from the current 150 to more than 300. Ninety-five percent of Discovery Foods employees live in Alameda County.

Discovery Foods has made some outstanding contributions, such as expanding their operation in Hayward, contributing to the economic well-being of the Hayward community, and providing job opportunities to local residents. Mr. Clarence Mou, Discovery Foods President, and Mr. Peter Cook, Vice President of Operations, accepted the award and thanked Council for this honor and recognition. Mr. Mou appreciated the award and thanked the Mayor and Council. He also thanked City Manager Armas for his assistance as well as the following employees: Building Official Hilary Herman, Assistant Fire Marshal Phil Simon, Hazardous Materials Investigator Steve Buscovich, Hazardous Materials Program Coordinator Hugh Murphy, Senior Building Inspector Bob Walsh, and in particular, Senior Inspector-Structural Steve Graves.

**PUBLIC COMMENTS**

Mayor Cooper reminded all to utilize the special annual pickup by Waste Management to discard and recycle old television sets. She noted that in 2005, obsolete computers will also be accepted.

Kathy Morris spoke on behalf of the Mobile Homeowners Association. She commented on the 45-day moratorium and the subsequent ordinance adopted by the Council on October 19, noting the limitation of time that the Committee was allowed to meet with staff to work on a new ordinance. She was concerned that no other sample ordinances were reviewed except the ones provided by the Committee. She stated that the new ordinance mentions a 20 year old conversion ordinance that the Committee did not review. She requested that a member of the Council utilize his or her Council Prerogative to recall the ordinance that was adopted in order for staff to meet with the Committee to develop a more acceptable one.

Bob Billmire also spoke on the conversion ordinance related to the mobile home parks. He commented on a particular legal case. He spoke on the 1984 conversion ordinance and suggested further work sessions to consider the recently adopted ordinance that may contain violations to State law.

Glenda Hammonds spoke on a program that she is affiliated with, i.e., Moderate Income Comprehensive Attic Program (MICAP), which offers attic insulation to moderate income participants. She noted that the California Public Utilities Commission funds this program.

Harry Bruno commented on free speech.

Jason Moreno submitted a statement regarding Public Works Department employees working on Saturday.

Barbara Heringer-Swarr commented on an event that will be held related to a “Counter Recruiting Program” sponsored by Code Pink. She also commented on human behavior at public meetings.

## **CONSENT**

1. Approval of Minutes of the Special Joint City Council/Redevelopment Agency Meeting of December 14, 2004

It was moved by Council/RA Member Henson, seconded by Council/RA Member Jimenez, and carried unanimously, to approve the minutes of the City Council Meeting of December 14, 2004.

2. Adoption of Amendments to the Zoning Ordinance Relative to Definition, Conditionally Permitted Use, and Minimum Design and Performance Standards for Theaters and to the Off-Street Parking Regulations for Theaters

Staff report submitted by City Clerk Angelina Reyes, dated December 21, 2004, was filed.

It was moved by Council Member Henson, seconded by Council Member Jimenez, and carried unanimously, to adopt the following:

Ordinance 04-19, “Ordinance Amending Section 10-1.3510, 10-1.1015, 10-1.1020, 10-1.1045, 10-1.815, 10-1.820, 10-1.915, 10-



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1.920, 10-1.1315, 10-1.1320, 10-1.1522, 10-1.1523 and 10-2.411 of Article 1 of Chapter 10 of the Hayward Municipal Code”

3. Highland Chain Pump Station Improvement Project: Approval of Addendum and Award of Construction Contract

Staff report submitted by Deputy Director of Public Works Ameri, dated December 21, 2004, was filed.

It was moved by Council Member Henson, seconded by Council Member Jimenez, and carried unanimously, to adopt the following:

Resolution 04-175, “Resolution Approving Addendum No. 1 and Awarding Contract to John Clay General Engineering Contractor, Inc., for the Highland Chain Pump Station Improvement Project, Project No. 7143”

Resolution 04-176, “Resolution Amending Resolution 04-102, as Amended, the Budget Resolution for Capital Improvement Projects for Fiscal Year 2004-05, Relating to an Additional Appropriation of Funds from the Water System Capital Improvement Fund to the Highland Chain Pump Station Improvement Project, Project No. 7143”

4. Municipal Parking Lot No. 2 Modifications: Approval of Plans and Specifications and Call for Bids

Staff report submitted by Deputy Director of Public Works Bauman, dated December 21, 2004, was filed.

It was moved by Council Member Henson, seconded by Council Member Jimenez, and carried unanimously, to adopt the following:

Resolution 04-177, “Resolution Approving Plans and Specifications for the Municipal Parking Lot No. 2 Modifications Project, Project No. 5096 and Call for Bids”

5. Authorization for Professional Services Agreement for New Burbank School Environmental Assessment

Staff report submitted by Project Manager Martel, dated December 21, 2004, was filed.

Council/RA Member Ward asked that a copy of the scope of work for that agreement be provided to Council.

It was moved by Council/RA Member Henson, seconded by Council/RA Member Jimenez, and carried unanimously, to adopt the following:

RA Resolution, 04-19, "Resolution Authorizing the Executive Director to Execute an Agreement for Professional Services between the City of Hayward Redevelopment Agency and Lowney Associates for the New Burbank School Environmental Assessment"

RA Resolution, 04-20, "Resolution Amending Resolution No. RA 04-07, as Amended, the Redevelopment Agency Budget Resolution for Fiscal Year 2004-05, Relating to an Appropriation of Funds from the Redevelopment Tax Allocation Bond Fund for the New Burbank School Environmental Assessment"

6. Conveyance of Surplus Property Parcel 122, Orchard Avenue and Whitman Street, to the Adjoining Property Owner

Staff report submitted by Deputy Director of Public Works Bauman, dated December 21, 2004, was filed.

It was moved by Council Member Henson, seconded by Council Member Jimenez, and carried unanimously to adopt the following:

Resolution 04-178, "Resolution Authorizing Conveyance of Surplus Property Parcel 122 on Orchard Avenue at Whitman Street to the Adjoining Property Owner"

7. Emergency Water System Intertie Project: Approval of Addenda, Award of Construction Contract, and Authorization for the City Manager to Execute an Amendment to the Professional Services Contract

Staff report submitted by Deputy Director of Public Works Ameri, dated December 21, 2004, was filed.

It was moved by Council Member Henson, seconded by Council Member Jimenez, and carried unanimously, to adopt the following:

Resolution 04-179, "Resolution Approving Addenda Nos. 1, 2, and 3 for the Emergency Water System Intertie Project, Project No. 7090 and Awarding Construction Contract to Mitchell Engineering"

Resolution 04-180, "Resolution Authorizing an Amendment to the Agreement with Carollo Engineers for the Emergency Water System Intertie Project, Project No. 7090"



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**HEARING**

8. Appeal of Planning Commission Decision regarding Text Amendment PL-2004-0331 – Salwan Property Management (Applicant) – A text amendment to the Zoning Ordinance, Section 10-1.1523(a)(7) to Conditionally Permit the use of “Animal Hospital” in the Central City-Commercial Subdistrict

Staff report submitted by Associate Planner Camire, dated December 21, 2004, was filed.

Planning Manager Anderly reported that Dr. Salwan initially applied for a text amendment to allow animal hospitals in the Central-City Zoning District. The Planning Commission denied the application noting that an animal hospital would be inconsistent with the General Plan, which recognizes the importance of a continuous retail frontage of pedestrian shopping areas. She reported that allowing for an animal hospital would weaken the attractiveness of the retail area. She depicted the particular zoned area and noted that most of the commercial areas in the City already allow animal hospitals and clinics, including along Mission and Jackson Streets.

Subsequent to that Planning Commission meeting, Dr. Salwan reported to staff that his intent was not to open an animal hospital, but to open a pet clinic. She noted his distinction was that the hospital would provide for overnight care and kennels, whereas an animal clinic would be for treatment, but not for overnight treatments. Staff's concern is whether the primary focus is veterinary since that is the applicant's occupation. She also reported that Dr. Salwan is interested in providing retail sales of pet products and supplies. She summarized that from a land use position, there is no difference. Since this was not discussed by the Planning Commission, staff is offering the recommendation to deny the appeal and ask that further discussion be made by the Planning Commission.

Council Member Henson discussed the distinction and differences from an animal hospital and animal clinic. He noted that the City of Oakland does allow for conditional use permits in the commercial areas.

There was discussion whether this use would attract pedestrian type consumers. When animals are ill, their owners would not walk them, but drive them so that they can be medically treated. In response to Council Member Quirk's inquiry, it was noted that currently retail pet supply and grooming services are permitted in the downtown, but not the veterinary hospital or animal boarding. City Manager Armas reported that he and Community and Economic Director Ehrenthal met with Dr. Salwan to review that question. He indicated that Dr. Salwan's proposal is not allowed and is his reason for pursuing the text change. There was discussion related to the process of the adoption of the ordinance if the Planning Commission approved Dr. Salwan's most recent proposal.

Council Member Jimenez agreed that this proposal needs to be discussed by the Planning Commission. He also questioned the noticing issue that Dr. Salwan purported to not receiving a notice and suggested that in the future staff utilize registered mail to certify receipt.

Council Member Halliday asked what other cities are doing related to animal clinics and veterinarian services. She asked if there was a difference between animal services businesses and medical clinics for humans.

Council Member Jimenez commented on the animal services conducted in the downtown and provided a historical perspective on this.

Mayor Cooper opened the public hearing at 8:48 p.m.

Dr. Raj Salwan commented that the Planning Commission's view of animal hospitals is somewhat antiquated. He remarked how animal hospitals are now clean and modern and stated that his endeavor is to bring a new pet care center, not an animal hospital to Hayward. This pet care center will be occupied with a large retail area with pet supplies and pet food. This proposed pet center will also include a pet grooming salon, a pharmacy and an outpatient type pet clinic. He clarified that there is a distinction between a pet care center that provides wellness and preventative care and vaccinations. There would be no hospitalizations, but simple outpatient services. Dr. Salwan noted that he and his father have two clinics in Fremont, one in Newark and one in Oakland. He felt that this would generate foot traffic in the downtown.

In response to Council Member Dowling's question regarding constructing a building, Dr. Salwan stated that there is a current need in the downtown for animal care and his family owns the former bank building proposed to be a pet care center.

Council Member Henson asked Dr. Salwan where he planned to open the pet care center. He asked Dr. Salwan to distinguish the services provided by an animal hospital and that provided by an animal clinic. He also asked for supporting data that evidences the need for this type of service.

Dr. Salwan provided the address as 1151 A Street, a building located between Second and Foothill Boulevard. He informed the Council that animals will not be hospitalized, but minor procedures as vaccinations or wellness checks in an out-patient manner would be conducted. He defined his business as a pet care center, not a hospital that cares more intensively. A clinic provides more of an outpatient type of service. He did not have a demographic study but noted that there is probably not one in this part of Hayward, so it is needed.

Council Member Ward asked when he acquired the building whether that was his intent for the building. In his experience, it appeared to him that this proposal is a fall back use and asked what type of marketing has occurred.

Dr. Salwan reported that the current building was acquired about seven or eight months ago, which had been vacant for several years. He confirmed that there is some shortage and indicated that other uses, such as banks, title or real estate offices have been considered.



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Barbara Heringer-Swarr commented that she walks the downtown and recently fostered kittens. She noted that she had to go to Castro Valley to make her pet care purchases. She noted that pet care services are for those pet owners with discretionary monies. She commented that “pet stuff” is part of impulse buying for consumers. She felt that this was a good use of the building and would be good for the area, and in particular for those pet owners who prefer walking this area.

Mayor Cooper closed the public hearing at 9:06 p.m.

Mayor Cooper clarified that she is not in support of an animal hospital in the downtown due to unnecessary noises and suggested this not be included in the ordinance. She suggested that if the Council decides that this is a workable use, that the ordinance limit the care center be devoted to animal care. She agreed that very minor procedures be allowed and that no animals be boarded or kenneled overnight. She felt that the idea of providing animal grooming services is a very attractive one. Mayor Cooper stated that pets are expensive to maintain and those who have pets do have discretionary funds to pamper their pets. She envisioned a pet boutique that provides higher end products for pets rather than more products on display from the floor to the ceiling. She was not adverse to the idea, but thought that more work needs to be done to clarify expectations. She recommended that this matter be sent back to the Planning Commission.

Council Member Quirk agreed with Mayor Cooper’s remarks. He felt that the doctors’ presentation made sense, but agreed with staff that this matter be returned to the Planning Commission for further discussion. He made the motion to send this back to the Planning Commission and deny the appeal. He asked that the Planning Commission look into the type of enterprise described in the report that considers pet clinics as an ancillary use to a permitted retail pet supply store and grooming facility in the downtown with no more than a quarter of the space and no boarding overnight of pets.

Council Member Jimenez seconded his motion.

Council Member Dowling was agreeable to Mayor Cooper’s vision for a high-end pet boutique, but his understanding of the owner’s intentions for that building is not that. He felt that the terms “pet clinics” and “pet care centers” were interchangeable with “animal hospital.” He felt strongly that this building remain a financial building for a bank or real estate company. An animal clinic does not work in this building or in this area. He would not be supporting the motion.

Council Member Henson agreed with Mayor Cooper’s comments and the need for that type of service. He recognized that animal lovers shop with their animals. He hoped that the owners would consider the boutique type of business. He felt that the owner needs to provide signage that clearly states that this will not be a hospital. He felt that overnight services are inappropriate. Council Member Henson would support this.

Council Member Halliday commented that the staff report does not mention a particular building site but a change to the zoning text and therefore was not aware of an actual site. If approved, this

would be to develop the language for such a use. She asked about the primary use in relation to obtaining a permit.

Planning Manager Anderly responded that staff would need to recommend an administrative or full use permit.

Council Member Halliday asked that the maker of the motion include the requirement of a use permit or an administrative use permit as part of this text amendment. It was noted that a full conditional use permit automatically goes to the Planning Commission. She thought this would help determine the appropriate uses and serve the needs of the downtown neighborhood.

City Manager Armas pointed out that this is not the downtown core. He clarified that the motion is to deny the appeal and refer this to the Planning Commission. He stated that staff will respond to comments made by Council relative to the appropriate use permit process, as well as other Council comments and issues. With this understanding, Council Member Halliday withdrew her suggestion.

It was moved by Council Member Quirk, seconded by Council Member Jimenez, and carried by the following roll call vote to adopt:

Resolution 04-81, “Resolution Finding the Project Categorically Exempt and Denying Text Amendment Application No. PL 2004-0331, to Permit Animal Hospitals in the Central City-Commercial Subdistrict”

AYES:	COUNCIL MEMBERS Jimenez, Quirk, Halliday, Ward, Henson MAYOR Cooper
NOES:	COUNCIL MEMBER Dowling
ABSENT:	COUNCIL MEMBER None
ABSTAINED:	COUNCIL MEMBER None

## **COUNCIL REPORTS**

There were no Council items.





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**ADJOURNMENT**

Mayor Cooper adjourned the meeting at 9:22 p.m., noting that this is the last Council Meeting of the year and wished everyone happy holidays and a great New Year. The next Regular Meeting is scheduled for January 11, 2005.

**APPROVED:**

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Roberta Cooper, Mayor, City of Hayward  
Chair, Redevelopment Agency

**ATTEST:**

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Angelina Reyes, City Clerk, City of Hayward  
Secretary, Redevelopment Agency